

CONSTRUCTION SUBCONTRACT

EXHIBIT "A"

GENERAL PROVISIONS

Revision 6

DECEMBER 11, 2000

BECHTEL SAVANNAH RIVER, INC.

EXHIBIT "A"

CONSTRUCTION SUBCONTRACT GENERAL PROVISIONS

TABLE OF CONTENTS

<u>GP</u>	<u>Title</u>	<u>Page No.</u>
1	ENTIRE AGREEMENT.....	3
2	INDEPENDENT CONTRACTOR.....	3
3	AUTHORIZED REPRESENTATIVE.....	3
4	NOTICES.....	3
5	SUBCONTRACT INTERPRETATION.....	3
6	ORDER OF PRECEDENCE.....	4
7	STANDARDS AND CODES.....	4
8	LAW AND REGULATIONS.....	4
9	PERMITS AND LICENSES.....	4
10	TAXES.....	5
11	LABOR, PERSONNEL AND WORK RULES.....	5
12	COMMERCIAL ACTIVITIES.....	5
13	PUBLICITY AND ADVERTISING.....	5
14	SITE CONDITIONS AND NATURAL RESOURCES.....	5
15	DIFFERING SITE CONDITIONS.....	6
16	TITLE TO MATERIALS FOUND.....	6
17	SURVEY CONTROL POINTS.....	6
18	SUBCONTRACTOR'S WORK AREA.....	7
19	CLEANING UP.....	7
20	COOPERATION WITH OTHERS.....	7
21	RESPONSIBILITY FOR WORK, SECURITY AND PROPERTY.....	7
22	SUBCONTRACTOR'S PLANT, EQUIPMENT AND FACILITIES.....	8
23	ILLUMINATION.....	9
24	USE OF CONTRACTOR'S CONSTRUCTION EQUIPMENT OR FACILITIES.....	9
25	INSPECTION, QUALITY SURVEILLANCE, REJECTION OF MATERIALS AND WORKMANSHIP.....	9
26	TESTING.....	10
27	EXPEDITING.....	10
28	PROGRESS.....	10
29	EXCUSABLE DELAYS.....	10
30	CHANGES.....	11
31	DISPUTES.....	12
32	USE OF COMPLETED PORTIONS OF WORK.....	13
33	EXAMINATION OF SUBCONTRACTOR'S RECORDS AND ACCOUNTS.....	13
34	WARRANTY.....	13
35	BACKCHARGES.....	14
36	INDEMNITY.....	15
37	PATENT AND INTELLECTUAL PROPERTY INDEMNITY.....	15
38	ASSIGNMENTS AND SUBCONTRACTS.....	16
39	SUSPENSION.....	16
40	TERMINATION FOR DEFAULT.....	17
41	TERMINATION FOR CONVENIENCE.....	18
42	FINAL INSPECTION AND ACCEPTANCE.....	19
43	NON-WAIVER.....	19
44	SURVIVAL.....	19
45	PAYMENT BY ELECTRONIC FUNDS TRANSFER.....	19
46	GOVERNMENT FLOWDOWNS.....	20

CONSTRUCTION SUBCONTRACT

EXHIBIT "A"

GENERAL PROVISIONS

GP-1 ENTIRE AGREEMENT

This Subcontract embodies the entire agreement between the CONTRACTOR and SUBCONTRACTOR and supersedes all other writings. The parties shall not be bound by, or be liable for any statement, representation, promise, inducement, or understanding not set forth herein.

GP-2 INDEPENDENT CONTRACTOR

SUBCONTRACTOR represents that it is fully experienced, properly qualified, registered, licensed, (in home state) equipped, organized and financed to perform the Work under this Subcontract. SUBCONTRACTOR shall act as an independent contractor and not as the agent of CONTRACTOR, WSRC or the GOVERNMENT, in performing this Subcontract, maintaining complete control over its employees and all of its lower-tier suppliers and subcontractors. Nothing contained in this Subcontract or any lower-tier purchase order or subcontract awarded by SUBCONTRACTOR shall create any contractual relationship between any lower-tier supplier or subcontractor and either CONTRACTOR, WSRC or the GOVERNMENT.

GP-3 AUTHORIZED REPRESENTATIVES

Before starting Work, Subcontractor shall designate in writing an authorized representative acceptable to CONTRACTOR to represent and act for SUBCONTRACTOR and shall specify any and all limitations of such representative's authority. Such representative shall be present or be represented at the Jobsite at all times when Work is in progress, and shall be empowered to receive communications in accordance with this Subcontract on behalf of SUBCONTRACTOR. During periods when the Work is suspended, arrangements shall be made for an authorized representative acceptable to CONTRACTOR for any emergency Work that may be required. All communications given to the authorized representative by CONTRACTOR in accordance with this Subcontract shall be binding upon SUBCONTRACTOR. CONTRACTOR shall designate in writing one or more representatives to represent and act for CONTRACTOR and to receive communications from SUBCONTRACTOR. Notification of changes of authorized representatives for either CONTRACTOR or SUBCONTRACTOR shall be provided in advance, in writing, to the other party.

GP-4 NOTICES

Any notices provided for hereunder shall be in writing and may be served either personally on the authorized representative of the receiving party at the Jobsite or by mail to the address of that party as shown on the face of the Subcontract Agreement Form or at such address as may have been changed by written notice.

GP-5 SUBCONTRACT INTERPRETATION

All questions concerning interpretation or clarification of this Subcontract, including the discovery of conflicts, errors, or omissions, or the acceptable performance thereof by SUBCONTRACTOR, shall be immediately submitted in writing to CONTRACTOR for resolution. All determinations, instructions and clarifications of CONTRACTOR shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. At all times SUBCONTRACTOR shall proceed with the Work in accordance with the determinations, instructions and clarifications of CONTRACTOR. SUBCONTRACTOR shall be solely responsible for requesting instructions or interpretations and shall be solely liable for any costs and expenses arising from its failure to do so.

GP-6 ORDER OF PRECEDENCE

This Subcontract Agreement Form, all documents listed therein, and subsequently issued Change Notices and amendments ("Modification Agreements") are essential parts of this Subcontract and a requirement occurring in one is binding as though occurring in all. In resolving conflicts, discrepancies, errors, or omissions pursuant to the General Provision title "SUBCONTRACT INTERPRETATION" the following order of precedence shall be used.

1. Subcontract Change Notices and Modification Agreement, if any
2. Subcontract Agreement Form
3. Exhibit "G" - Project Agreement
4. Exhibit "C" - Quantities, Prices and Data
5. Exhibit "B" - Special Provisions
6. Exhibit "A" - General Provisions
7. Exhibit "F" - SUBCONTRACTOR Safety and Health Requirements
8. Exhibit "E" - Scope of Work & Technical Specifications
9. Exhibit "D" - Drawings

GP-7 STANDARDS AND CODES

Wherever references are made in this Subcontract to standards or codes in accordance with which the Work under this Subcontract is to be performed, the edition or revision of the standards or codes current on the effective date of this Subcontract shall apply unless otherwise expressly stated **in the specifications and drawings**. In case of conflict between any reference standards and codes and any Subcontract Document, the latter shall govern.

GP-8 LAWS AND REGULATIONS

SUBCONTRACTOR and its employees and lower-tier subcontractors shall at all times comply with all applicable laws, ordinances, statutes, rules, or regulations, in effect at the time work under this subcontract is performed, and SUBCONTRACTOR agrees to indemnify and save harmless CONTRACTOR, WSRC and the GOVERNMENT, **its officers, employees, servants, and agents of either of them** from and against any and all claims or expenses caused or occasioned directly or indirectly by its failure to so comply.

If during the term of this subcontract there are any changed or new laws, ordinances, or regulations not known or foreseeable at the time of signing this subcontract which affect the cost or time of performance of the subcontract, SUBCONTRACTOR shall immediately notify in writing and submit detailed documentation of such effect in terms of both time and cost of performing the subcontract. Upon concurrence by CONTRACTOR as to the effect of such changes, an equitable adjustment in the compensation and time of performance will be made.

SUBCONTRACTOR is liable to CONTRACTOR, WSRC and the GOVERNMENT for all fines and penalties assessed by any governmental entity against CONTRACTOR, WSRC and the GOVERNMENT as a result of SUBCONTRACTOR's failure to perform its work under the subcontract in compliance with the requirements of the subcontract.

If any discrepancy or inconsistency should be discovered between the Subcontract and any law, ordinance, regulation, order, or decree, SUBCONTRACTOR shall immediately report the same in writing to CONTRACTOR who will issue such further instructions as may be necessary.

GP-9 PERMITS AND LICENSES

Except as otherwise specified, SUBCONTRACTOR shall procure and pay for all permits, licenses and inspections, other than inspections performed by CONTRACTOR and shall furnish any bonds, security, or deposits required by the Government, state, territory, municipality, or other political subdivisions to permit performance of the Work hereunder. This includes, but is not necessarily limited to identifying if such permits and licenses are required, compiling the information and data required for applications to obtain permits and licenses, filing of necessary applications for such permits and licenses, and providing any additional information or data required.

Where permits and licenses are furnished by the CONTRACTOR, WSRC or the GOVERNMENT, the SUBCONTRACTOR shall provide all reasonable assistance requested, including the providing of any necessary information or data.

GP-10 TAXES

SUBCONTRACTOR shall pay all taxes, levies, duties and assessments of every nature due in connection with the Work under this Subcontract and shall make any and all payroll deductions required by law and hereby indemnifies and holds harmless CONTRACTOR, WSRC and the GOVERNMENT from any liability on account of any and all such taxes, levies, duties, assessments and deductions.

GP-11 LABOR, PERSONNEL AND WORK RULES

SUBCONTRACTOR shall employ only competent and skilled personnel to perform the Work and shall remove from the Job site any SUBCONTRACTOR personnel determined to be unfit or to be acting in violation of any provision of this subcontract. **For information regarding CONTRACTOR work rules and disciplinary action applied to CONTRACTOR personnel in violation of work rules (with particular emphasis on Safety violations), SUBCONTRACTOR may contact CONTRACTOR'S designated Subcontract Labor Relations Representative.** SUBCONTRACTOR is responsible for maintaining labor relations in such a manner that there is harmony among workers and shall comply with and enforce Project and Jobsite procedures, regulations, work rules and work hours established by the CONTRACTOR and the GOVERNMENT.

CONTRACTOR may at its sole discretion deny access to the Jobsite to any individual by written notice to SUBCONTRACTOR. In the event an employee is excluded from the Jobsite, SUBCONTRACTOR shall promptly replace such individual with another who is fully competent and skilled to perform the Work.

SUBCONTRACTOR shall, to the extent permissible under applicable law, comply with the provisions of all labor agreement(s), inclusive of the site Project Agreement, which apply to the Work performed under this Subcontract.

Work assignments and the settlement of jurisdictional disputes shall conform with either the Rules, Regulations and Procedures of the Plan for Settlement of Jurisdictional Disputes in the Construction Industry, and any successor agreement thereto, or any other mutually established method of determining work assignments and settling jurisdictional disputes.

GP-12 COMMERCIAL ACTIVITIES

Neither SUBCONTRACTOR nor its employees shall establish any commercial activity or issue concessions or permits of any kind to third parties for establishing commercial activities on the Jobsite or any other lands owned or controlled by CONTRACTOR, WSRC or the GOVERNMENT.

GP-13 PUBLICITY AND ADVERTISING

SUBCONTRACTOR shall not make any announcement, take any photographs, or release any information concerning this Subcontract, or the Project, or any part thereof to any member of the public, press, business entity, or any official body unless prior written consent is obtained from CONTRACTOR.

GP-14 SITE CONDITIONS AND NATURAL RESOURCES

SUBCONTRACTOR shall have the sole responsibility for satisfying itself concerning the nature and location of the Work and the general and local conditions, including but not limited to the following:

- (a) Transportation, access, disposal, handling and storage of materials,
- (b) Availability and quality of labor, water, electric power and road conditions,
- (c) Climatic conditions, tides and seasons,
- (d) River hydrology and river stages,

- (e) Physical conditions at the Jobsite and the project area as a whole,
- (f) Topography and ground surface conditions, and
- (g) Equipment and facilities needed preliminary to and during the performance of the Work.

The failure of SUBCONTRACTOR to acquaint itself with any applicable conditions will not relieve SUBCONTRACTOR of the responsibility for properly estimating either the difficulties or the cost of successfully performing SUBCONTRACTOR'S obligations under this Subcontract.

Where CONTRACTOR, WSRC or the GOVERNMENT has made investigations of subsurface conditions in areas where Work is to be performed under this Subcontract, such investigations are made by CONTRACTOR, WSRC and the GOVERNMENT for the purpose of study and design. If the records of such investigations are included in the Subcontract Documents, the interpretation of such records shall be the sole responsibility of SUBCONTRACTOR. Neither CONTRACTOR, WSRC nor the GOVERNMENT assumes any responsibility whatsoever in respect to the sufficiency or accuracy of such investigations, the records thereof, or of the interpretations set forth and there is no warranty or guarantee, either express or implied, that the conditions indicated by such investigations or records thereof are representative of those existing throughout such areas, or any part thereof, or that unforeseen developments may not occur, or that materials other than or in proportions different from those indicated may not be encountered.

GP-15 DIFFERING SITE CONDITIONS

SUBCONTRACTOR shall promptly notify CONTRACTOR in writing before proceeding with any Work which SUBCONTRACTOR believes constitutes a differing site condition with respect to:

- (a) Subsurface or latent physical conditions at the Jobsite differing materially from those indicated in this Subcontract, or
- (b) Previously unknown physical conditions at the Jobsite, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in this Subcontract.

CONTRACTOR will, as promptly as practicable, investigate such conditions and make a determination. If CONTRACTOR determines that such conditions do materially so differ and cause an increase or decrease in SUBCONTRACTOR'S cost of or the time required for performance of the Work under the Subcontract, and adjustment will be made and the Subcontract modified in writing accordingly. No claim of SUBCONTRACTOR under this clause will be allowed unless SUBCONTRACTOR has given the required notice.

GP-16 TITLE TO MATERIALS FOUND

The title to water, soil, rock, gravel, sand, minerals, timber and any other materials developed or obtained in the excavation or other operations of SUBCONTRACTOR or any of its lower-tier subcontractors and the right to use said materials or dispose of same is hereby expressly reserved by the GOVERNMENT. Neither SUBCONTRACTOR, its lower-tier sub contractors, nor any of their representatives or employees shall have any right, title, or interest in said materials nor shall they assert or make any claim thereto. SUBCONTRACTOR may, at the sole discretion of the GOVERNMENT, be permitted, without charge, to use in the Work any such materials which meet the requirements of this Subcontract.

GP-17 SURVEY CONTROL POINTS AND LAYOUTS

Survey control points as shown on the drawings will be established by CONTRACTOR.

SUBCONTRACTOR shall complete the layout of all Work and shall be responsible for all requirements necessary for the Work execution in accordance with the locations, lines and grades specified or shown on the drawings, subject to such modifications as CONTRACTOR may require as Work progresses.

If SUBCONTRACTOR or any of its lower-tier subcontractors or any of their representatives or employees move or destroy or render inaccurate any survey control point, such control point shall be replaced by CONTRACTOR at SUBCONTRACTOR'S expense. No separate payment will be made for survey Work performed by SUBCONTRACTOR.

GP-18 SUBCONTRACTOR'S WORK AREA

All SUBCONTRACTOR Work areas on the Jobsite will be assigned by CONTRACTOR. SUBCONTRACTOR shall confine its operations to the areas so assigned. Should SUBCONTRACTOR find it necessary or advantageous to use any additional off-site area for any purpose whatsoever, SUBCONTRACTOR shall, at its expense, provide and make its own arrangements for the use of such additional off-site areas.

GP-19 CLEANING UP

SUBCONTRACTOR shall, at all times, keep its Work areas in a neat, clean and safe condition.

Upon completion of any portion of the Work, SUBCONTRACTOR shall promptly remove from the Work area all its equipment, construction plant, temporary structures and surplus materials not to be used at or near the same location during later stages of the Work.

Upon completion of the Work and prior to final payment, SUBCONTRACTOR shall at its expense satisfactorily dispose of all rubbish, remove all plant, buildings, equipment and materials belonging to SUBCONTRACTOR; and return to CONTRACTOR'S warehouse or Jobsite storage area all salvageable CONTRACTOR, WSRC or the GOVERNMENT supplied materials. SUBCONTRACTOR shall leave the premises in a neat, clean and safe condition.

In event of SUBCONTRACTOR'S failure to comply with the foregoing, CONTRACTOR will accomplish same at SUBCONTRACTOR'S expense.

GP-20 COOPERATION WITH OTHERS

CONTRACTOR, WSRC the GOVERNMENT, other contractors and other subcontractors may be working at the Jobsite during the performance of this Subcontract and SUBCONTRACTOR Work or use of certain facilities may be interfered with as a result of such concurrent activities. Contractor reserves the right to require SUBCONTRACTOR to schedule the order of performance of the Work in such a manner as will minimize interference with Work of any of the parties involved. SUBCONTRACTOR shall fully cooperate with other subcontractors and with CONTRACTOR, WSRC or the GOVERNMENT. SUBCONTRACTOR shall not commit any act that will interfere with the performance of work by any other subcontractor or by CONTRACTOR, WSRC or the GOVERNMENT.

Should SUBCONTRACTOR incur any additional costs or sustain any damages through any act or omission of another subcontractor, SUBCONTRACTOR shall have no claim or cause of action against CONTRACTOR, WSRC or the GOVERNMENT for such additional costs or damages and hereby waives any such claim. The phrase "act or omission" as used herein includes but is not limited to delays, interferences, hindrances, or disruptions on the part of another subcontractor.

GP-21 RESPONSIBILITY FOR WORK, SECURITY AND PROPERTY

- A. Work in Progress, Materials and Equipment. SUBCONTRACTOR shall be responsible for and shall bear any and all risk of loss of or damage to Work in progress, all materials and equipment until final acceptance of the Work under this Subcontract.
- B. Delivery, Unloading and Storage. SUBCONTRACTOR'S responsibility for materials and plant equipment required for the performance of this Subcontract shall include:

- (a) Receiving and unloading,
 - (b) Storing in a secure place and in a manner subject to CONTRACTOR'S review. Outside storage of materials and equipment subject to degradation by the elements shall be in weather tight enclosures provided by SUBCONTRACTOR,
 - (c) Delivering from storage to construction site all materials and plant equipment as required, and
 - (d) Maintaining complete and accurate records for CONTRACTOR'S inspection of all materials and plant equipment received, stored and issued for use in the performance of the Subcontract.
- C. Security. SUBCONTRACTOR shall at all times conduct all operations under this Subcontract in a manner to avoid the risk of loss, theft, or damage by vandalism, sabotage, or any other means to any Work, materials, equipment, or other property at the Jobsite. SUBCONTRACTOR shall continuously inspect all Work, materials and equipment to discover and determine any conditions which might involve such risks and shall be solely responsible for discovery, determination and correction of any such conditions

SUBCONTRACTOR shall comply with CONTRACTOR'S security requirements for the Jobsite. SUBCONTRACTOR shall cooperate with CONTRACTOR on all security matters and shall promptly comply with any project security arrangements established by CONTRACTOR, WSRC or the GOVERNMENT. Such compliance with these security requirements shall not relieve SUBCONTRACTOR of its responsibility for maintaining proper security for the above noted items, nor shall it be construed as limiting in any manner SUBCONTRACTOR'S obligation with respect to all applicable laws and regulations and to undertake reasonable action to establish and maintain secure conditions at the Jobsite.

- D. Property. SUBCONTRACTOR shall plan and conduct its operations so as not to:

- (a) Enter upon lands in their natural state unless authorized by CONTRACTOR,
- (b) Damage, close, or obstruct any utility installation, highway, road, or other property until permits therefore have been obtained,
- (c) Disrupt or otherwise interfere with the operation of any pipeline, telephone, electric transmission line, ditch, or structure unless otherwise specifically authorized by this Subcontract, or
- (d) Damage or destroy cultivated and planted areas, and vegetation such as trees, plants, shrubs and grass on or adjacent to the premises which, as determined by CONTRACTOR, do not interfere with the performance of this Subcontract. This includes damage arising from performance of Work through operations of equipment or stockpiling of materials.

SUBCONTRACTOR shall not be entitled to any extension of time or compensation on account of SUBCONTRACTOR'S failure to protect all materials, equipment and environment as described herein. All costs in connection with any repairs or restoration necessary or required by reason of unauthorized obstruction, damage, or use shall be borne by SUBCONTRACTOR.

GP-22 SUBCONTRACTOR'S PLANT, EQUIPMENT AND FACILITIES

SUBCONTRACTOR shall provide and use for the Work hereunder only such construction plant and equipment as are capable of producing the quality and quantity of Work and materials required by this Subcontract and within the time or times specified in the Subcontract Schedule.

Before proceeding with the Work hereunder, SUBCONTRACTOR shall furnish CONTRACTOR with information and drawings relative to such equipment, plant and facilities as CONTRACTOR may request. Upon written order of CONTRACTOR, SUBCONTRACTOR shall discontinue operation of unsatisfactory plant, equipment, or facilities and shall either modify the unsatisfactory items or remove such items from the Jobsite.

SUBCONTRACTOR shall, at the time any equipment is moved onto the Jobsite, present to CONTRACTOR an itemized list of all equipment, including but not limited to cranes, welding machines, pumps and compressors. Said list must include description and quantity, and serial number where applicable. Prior to removal of any or all equipment, SUBCONTRACTOR shall clear such removal through CONTRACTOR.

Any SUBCONTRACTOR or rental equipment involved in an on-site accident shall not be removed from the site until all information required for the accident investigation is obtained and approval for release is received from CONTRACTOR.

GP-23 ILLUMINATION

When any Work is performed at night or where daylight is obscured, SUBCONTRACTOR shall, at its expense, provide artificial light sufficient to permit Work to be carried on efficiently, satisfactorily and safely, and to permit thorough inspection. During such time periods the access to the place of Work shall also be clearly illuminated. All wiring for electric light and power shall be installed and maintained in a safe manner and meet all applicable codes and standards.

GP-24 USE OF CONTRACTOR'S CONSTRUCTION EQUIPMENT OR FACILITIES

Where SUBCONTRACTOR requests CONTRACTOR and CONTRACTOR agrees to make available to SUBCONTRACTOR certain equipment or facilities belonging to CONTRACTOR for the performance of SUBCONTRACTOR Work under the Subcontract, the following shall apply:

- (a) Equipment or facilities will be charged to SUBCONTRACTOR at agreed rental rates,
- (b) CONTRACTOR will furnish a copy of the equipment maintenance and inspection record, and these records shall be maintained by SUBCONTRACTOR during the rental period,
- (c) SUBCONTRACTOR shall assure itself of the condition of such equipment and assume all risks and responsibilities during its use. SUBCONTRACTOR shall release, defend, indemnify and hold CONTRACTOR harmless against any damages or claims that may arise from use of the equipment,
- (d) CONTRACTOR and SUBCONTRACTOR shall jointly inspect such equipment before its use and upon its return. The cost of all necessary repairs or replacement for damage other than normal wear shall be subcontractor's expense, and
- (e) If such equipment is furnished with an operator, the services of such operator will be performed under the complete direction and control of SUBCONTRACTOR and such operator shall be considered SUBCONTRACTOR'S employee for all purposes other than the payment of wages, Workers' Compensation Insurance or other benefits whether paid directly or indirectly by CONTRACTOR, WSRC or the GOVERNMENT.

GP-25 INSPECTION, QUALITY SURVEILLANCE, REJECTION OF MATERIALS AND WORKMANSHIP

All material and equipment furnished and Work performed shall be properly inspected by SUBCONTRACTOR at its expense, and shall at all times be subject to quality surveillance and quality audit by CONTRACTOR, WSRC the GOVERNMENT, or their authorized representatives who shall be afforded full and free access to the shops, factories, or other places of business of SUBCONTRACTOR and its lower-tier suppliers and subcontractors for such quality surveillance or audit. SUBCONTRACTOR shall provide safe and adequate facilities, drawings, documents and samples as requested, and shall provide assistance and cooperation including stoppage of Work to perform such examination as may be necessary to determine compliance with the requirements of this Subcontract. Any Work covered prior to any scheduled quality surveillance or test by CONTRACTOR, WSRC or the GOVERNMENT shall be uncovered and replaced at the expense of SUBCONTRACTOR. Failure of CONTRACTOR, WSRC or the GOVERNMENT to make such quality surveillance or to discover defective design, materials or workmanship shall not relieve SUBCONTRACTOR of its obligations under this Subcontract nor

prejudice the rights of CONTRACTOR, WSRC or the GOVERNMENT thereafter to reject or require the correction of defective Work in accordance with the provisions of this Subcontract.

If any Work is determined by CONTRACTOR, WSRC or the GOVERNMENT to be defective or not in conformance with this Subcontract, the provisions, of the General Provision titled "WARRANTY" shall apply.

GP-26 TESTING

Unless otherwise provided in the Subcontract, testing of materials or Work shall be performed by SUBCONTRACTOR at its expense and in accordance with Subcontract requirements. Should tests in addition to those required by this Subcontract be desired by CONTRACTOR, SUBCONTRACTOR will be advised in ample time to permit such testing. Such additional tests will be at CONTRACTOR'S expense.

SUBCONTRACTOR shall furnish samples as requested and shall provide reasonable assistance and cooperation necessary to permit tests to be performed on materials or Work in place including reasonable stoppage of Work during testing.

If, before acceptance of the entire Work, CONTRACTOR decides to examine already completed work by removing it or tearing it out, SUBCONTRACTOR, on request, shall promptly furnish all necessary facilities, labor, and materials. If the Work is found to be defective or non-conforming in any material respect due to the fault of SUBCONTRACTOR or its lower tier subcontractors, SUBCONTRACTOR shall defray the expense of the examination and of satisfactory reconstruction. However, if the Work is found to meet subcontract requirements, CONTRACTOR shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the Work was thereby delayed, an extension of time.

GP-27 EXPEDITING

The material and equipment furnished and Work performed under this Subcontract shall be subject to expediting by CONTRACTOR, or its representatives who shall be allowed full and free access to the shops, factories and other places of business of SUBCONTRACTOR and its lower-tier suppliers and subcontractors for expediting purposes. As required by CONTRACTOR, SUBCONTRACTOR shall provide detailed schedules and progress reports for use in expediting and shall cooperate with CONTRACTOR in expediting activities.

GP-28 PROGRESS

SUBCONTRACTOR shall give CONTRACTOR full information in advance as to its plans for performing each part of the Work. If at any time, SUBCONTRACTOR'S actual progress is inadequate to meet the requirements of this Subcontract, CONTRACTOR may so notify SUBCONTRACTOR who shall thereupon take such steps as may be necessary to improve its progress. If within a reasonable period as determined by CONTRACTOR, SUBCONTRACTOR does not improve performance to meet the currently approved Subcontract Schedule, CONTRACTOR may require an increase in SUBCONTRACTOR'S labor force, the number of shifts, overtime operations, additional days of Work per week and an increase in the amount of construction plant, all without additional cost to CONTRACTOR. Neither such notice nor CONTRACTOR'S failure to issue such notice shall relieve SUBCONTRACTOR of its obligation to achieve the quality of Work and rate of progress required by this Subcontract.

Failure of SUBCONTRACTOR to comply with CONTRACTOR'S instructions may be grounds for determination by CONTRACTOR that SUBCONTRACTOR is not prosecuting the Work with such diligence as will assure completion within the times specified. Upon such determination, CONTRACTOR may terminate, in accordance with the applicable provisions of this Subcontract, SUBCONTRACTOR'S right to proceed with the performance of the Subcontract.

GP-29 EXCUSABLE DELAYS

If SUBCONTRACTOR'S performance of this Subcontract is prevented or delayed by any unforeseeable cause, existing or future, which is beyond the reasonable control of the parties and without the fault or negligence of SUBCONTRACTOR, SUBCONTRACTOR shall, within twenty-four (24) hours of the commencement of any such delay, give to CONTRACTOR written notice thereof and within seven (7) calendar days of commencement of the

delay, a written description of the anticipated impact of the delay on performance of the Work. Delays attributable to and within the control of SUBCONTRACTOR'S suppliers or subcontractors of any tier shall be deemed delays within the control of SUBCONTRACTOR. Radiological survey time to release personnel, materials, equipment, or facilities from known radiological areas shall not be considered excusable delays. Within seven (7) calendar days after the termination of any excusable delay, SUBCONTRACTOR shall file a written notice with CONTRACTOR specifying the actual duration of the delay. Failure to give any of the above notices shall be sufficient ground for denial of an extension of time. If CONTRACTOR determines that the delay was unforeseeable, beyond the control and without the fault or negligence of SUBCONTRACTOR, CONTRACTOR will determine the duration of the delay and will extend the time of performance of this Subcontract by modifying the Special Provision titled "COMMENCEMENT, PROGRESS, AND COMPLETION OF THE WORK" accordingly.

GP-30 CHANGES

CONTRACTOR may, at any time, without notice to the sureties, by written Change Notice, unilaterally make any change in the Work within the general scope of this Subcontract, including but not limited to changes:

- (a) In the drawings, designs, or specifications;
- (b) In the method, manner, or sequence of SUBCONTRACTOR Work;
- (c) In the GOVERNMENT, WSRC or CONTRACTOR - furnished facilities, equipment, materials, services or site(s);
- (d) Directing acceleration or deceleration in the performance of the Work; and
- (e) Modifying the Subcontract Schedule or the Subcontract Milestones.

In addition, in the event of an emergency which CONTRACTOR determines endangers life or property, CONTRACTOR may use oral orders to SUBCONTRACTOR for any work required by reason of such emergency. SUBCONTRACTOR shall commence and complete such emergency work as directed by CONTRACTOR. Such orders will be confirmed by Change Notice.

All other changes that are outside the general scope of this Subcontract or that relate to provisions not enumerated above shall be by written bilateral modification.

If at any time SUBCONTRACTOR believes that acts or omissions of CONTRACTOR, WSRC or the GOVERNMENT constitute a change to the Work not covered by a Change Notice, SUBCONTRACTOR shall within ten (10) calendar days of discovery of such act or omission submit a written Change Notice Request explaining in detail the basis for the request. CONTRACTOR will either issue a Change Notice or deny the request in writing.

If any change under this clause directly or indirectly causes an increase or decrease in cost of, or the time required for, the performance of any part of the Work under this Subcontract, whether or not changed by any order, an equitable adjustment shall be made and the Subcontract modified accordingly. However, SUBCONTRACTOR shall not be entitled to and neither CONTRACTOR, WSRC nor the GOVERNMENT shall be liable to SUBCONTRACTOR or its lower-tier suppliers or subcontractors for increased costs in connection with any changes or delays in the Work for claims arising in tort (including negligence), or in contract except as specifically provided in this Subcontract.

If the SUBCONTRACTOR intends to assert a request for an equitable adjustment under this clause, it must, within ten (10) calendar days after receipt of a Change Notice provide written notification of such intent and within a further twenty (20) calendar days, pursuant to the Special Provision titled "PRICING OF ADJUSTMENTS", submit to CONTRACTOR a written proposal setting forth the nature, schedule impact and monetary extent of such claim in sufficient detail to permit thorough analysis and negotiation.

Additional cost or damages recoverable by SUBCONTRACTOR for any claim for acceleration allowable under this Subcontract shall be limited to additional costs incurred by SUBCONTRACTOR due to: increased shift length;

increased number of days worked per week; increased quantity of construction equipment and materials; increased supervision and other Jobsite overheads.

Any delay by SUBCONTRACTOR in giving notice or presenting a proposal for adjustment under this clause shall be grounds for rejection of the claim if and to the extent CONTRACTOR, WSRC or the GOVERNMENT are prejudiced by such delay. In no case shall a claim by SUBCONTRACTOR be considered if asserted after final payment under this Subcontract.

Failure by CONTRACTOR and SUBCONTRACTOR to agree on any adjustment shall be a dispute within the meaning of the General Provision titled "DISPUTES." However, SUBCONTRACTOR shall proceed diligently with performance of the work as changed pending final resolution of any request for relief, dispute, claim appeal, or action arising under the Subcontract and comply with any decision of CONTRACTOR.

GP-31 DISPUTES

SUBCONTRACTOR shall proceed diligently with performance of the Work, pending final resolution of any request for relief, dispute, claim, appeal, or action arising under the Subcontract, and comply with any decision on CONTRACTOR.

SUBCONTRACTOR shall not be entitled to and neither CONTRACTOR, WSRC nor the GOVERNMENT shall be liable to SUBCONTRACTOR or its lower-tier suppliers or subcontractors in tort (including negligence), or contract except as specifically provided in this Subcontract.

Any claim for an adjustment to the subcontract price or time of performance which cannot be resolved by negotiation shall be considered a dispute within the meaning of this clause. For all claims in excess of \$50,000 SUBCONTRACTOR shall certify that the claim is made in good faith; that the supporting data is accurate and complete; and that the amount requested accurately reflects the adjustment for which SUBCONTRACTOR believes CONTRACTOR is liable.

If for any reason SUBCONTRACTOR and CONTRACTOR are unable to resolve a claim for an adjustment, SUBCONTRACTOR or CONTRACTOR shall notify the other party in writing that a dispute exists and request or provide a final determination by CONTRACTOR. Any such request by SUBCONTRACTOR shall be clearly identified by reference to this clause and shall summarize the facts in dispute and SUBCONTRACTOR'S proposal for resolution.

CONTRACTOR shall, within thirty (30) days of any request by SUBCONTRACTOR, provide a final written determination setting forth the contractual basis for its decision and defining what subcontract adjustments it considers equitable. Upon SUBCONTRACTOR'S acceptance of CONTRACTOR'S determination, the Subcontract will be modified and the determination implemented accordingly or, failing agreement, CONTRACTOR may in its sole discretion pay such amounts and/or revise the time for performance of the Work in accordance with CONTRACTOR'S final determination.

If CONTRACTOR'S final determination is not accepted by SUBCONTRACTOR, the parties agree to consider resolution of the dispute through some form of Alternative Dispute Resolution (ADR) process which is mutually acceptable to the parties. Either party may propose ADR by a written request made within ninety (90) days following CONTRACTOR'S final determination or in any event before final payment under the Subcontract. Should the parties agree to pursue an ADR process, each party will be responsible for its own expenses incurred to resolve the dispute.

If the parties do not agree to an ADR process or are unable to resolve the dispute through ADR, either party shall then have the right to pursue legal remedy. Any litigation shall be pursued in a court of competent jurisdiction located in the State of South Carolina. The determination of any substantive issues of law shall be according to the Federal common law of Government contracts as stated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. If there is no applicable Federal Government contract law, the law of the State of South Carolina shall apply in the determination of such issues.

GP-32 USE OF COMPLETED PORTIONS OF WORK

Whenever, as determined by CONTRACTOR, any portion of the Work performed by SUBCONTRACTOR is suitable for use, CONTRACTOR, WSRC or the GOVERNMENT may occupy and use such portion. Use shall not constitute acceptance, relieve SUBCONTRACTOR of its responsibilities, or act as a waiver by CONTRACTOR or any of the terms of the Subcontract.

SUBCONTRACTOR shall not be liable for normal wear and tear or for repair of damage caused by any misuse during such occupancy or use by CONTRACTOR, WSRC or the GOVERNMENT. If such use increases the cost or time of performance of remaining portions of the Work, SUBCONTRACTOR shall be entitled to an equitable adjustment in its compensation or schedule under this Subcontract.

If, as a result of SUBCONTRACTOR'S failure to comply with the provisions of this Subcontract, such use proves to be unsatisfactory to CONTRACTOR, WSRC or the GOVERNMENT, CONTRACTOR, WSRC or the GOVERNMENT shall have the right to continue such use until such portion of the Work can, without injury to CONTRACTOR, WSRC or the GOVERNMENT, be taken out of service for correction of defects, errors, omissions, or replacement of unsatisfactory materials or as necessary for such portion of the Work to comply with the Subcontract; provided that the period of such operation or use pending completion of appropriate remedial action shall not exceed twelve (12) months unless otherwise mutually agreed in writing between the parties.

SUBCONTRACTOR shall not use any permanently installed equipment unless such use is approved in writing by CONTRACTOR. When such use is approved, SUBCONTRACTOR shall at SUBCONTRACTOR'S expense properly use and maintain and, upon completion of such use, recondition such equipment as required to meet specifications.

If CONTRACTOR, WSRC or the GOVERNMENT furnishes an operator for such equipment, all services performed shall be under the complete direction and control of SUBCONTRACTOR, and such operator shall be considered SUBCONTRACTOR'S employee for all purposes other than payment of such operator's wages, Worker's Compensation Insurance or other benefits paid directly or indirectly by CONTRACTOR, WSRC or the GOVERNMENT.

GP-33 EXAMINATION OF SUBCONTRACTOR'S RECORDS AND ACCOUNTS

SUBCONTRACTOR shall maintain records and accounts in connection with the performance of this Subcontract which will accurately document incurred costs, both direct and indirect, of whatever nature. If CONTRACTOR, WSRC or the GOVERNMENT establishes uniform codes of accounts for the Project, SUBCONTRACTOR shall use such codes in identifying its records and accounts. CONTRACTOR, WSRC the GOVERNMENT, or their representatives shall have the right to examine at all reasonable times, with advance notification, such records and accounts for the limited purpose of verifying requests for payment when costs are the basis of such payment and for evaluating the reasonableness of proposed Subcontract price adjustments and claims.

GP-34 WARRANTY

SUBCONTRACTOR warrants to CONTRACTOR, WSRC and the GOVERNMENT that equipment and materials furnished under this Subcontract shall be new, of clear title and of the most suitable grade of their respective kinds for their intended uses, unless otherwise specified. All workmanship shall be first class and performed in accordance with sound construction practices acceptable to CONTRACTOR. All equipment, materials and workmanship shall also conform to the requirements of this Subcontract.

SUBCONTRACTOR warrants all equipment and material it furnishes and all work it performs against defects in design, equipment, materials, or workmanship either for a period from Work commencement to a date twelve (12) months after Mechanical Completion of the project as a whole by CONTRACTOR, WSRC or the GOVERNMENT or the standard commercial warranty period, whichever is more advantageous to the CONTRACTOR. Any warranties for manufactured or fabricated equipment that survives the twelve month warranty period of the project shall remain in effect and be accessible to CONTRACTOR, WSRC or the GOVERNMENT.

If at any time during the warranty period, CONTRACTOR, WSRC or the GOVERNMENT discover any defect in the design, equipment, materials, or workmanship immediate notice shall be given to the other parties.

SUBCONTRACTOR shall within a reasonable time propose corrective actions to cure such defects to meet the requirements of this Subcontract.

CONTRACTOR, at its sole discretion, may direct SUBCONTRACTOR in writing and SUBCONTRACTOR agrees to:

- (a) Rework, repair, or remove and replace defective equipment and materials or perform **again the** defective workmanship to acceptable quality at a time and in a manner acceptable to CONTRACTOR;
- (b) Cooperate with others assigned by CONTRACTOR to correct such defects and pay to CONTRACTOR all actual costs reasonably incurred by CONTRACTOR in performing or in having performed corrective actions; or
- (c) Propose and negotiate in good faith an equitable reduction in the Subcontract price in lieu of corrective action.

All costs incidental to corrective actions including demolition for access, removal, disassembly, transportation, reinstallation, reconstruction, retesting and reinspection as may be necessary to correct to the defect and to demonstrate that the previously defective work conforms to the requirements of this Subcontract shall be borne by SUBCONTRACTOR.

SUBCONTRACTOR further warrants any and all corrective actions it performs against defects in design, equipment, materials and workmanship for an additional period of twelve (12) months following acceptance by CONTRACTOR of the corrected Work or standard commercial warranty on product meeting standard warranty.

GP-35 BACKCHARGES

If, under the provisions of this Subcontract, SUBCONTRACTOR is notified by CONTRACTOR to correct defective or nonconforming Work, and SUBCONTRACTOR states or by its actions indicates that it is unable or unwilling to proceed with corrective action in a reasonable time, CONTRACTOR may, upon written notice, proceed to accomplish the redesign, repair, rework, or replacement of nonconforming Work by the most expeditious means available and backcharge SUBCONTRACTOR for the costs incurred. Furthermore, if CONTRACTOR agrees to or is required to perform Work for SUBCONTRACTOR, such as cleanup, off-loading, or completion of incomplete Work, CONTRACTOR may, upon written notice, perform such Work by the most expeditious means available and backcharge SUBCONTRACTOR for the costs incurred.

The cost of backcharge Work shall include:

- (a) Incurred labor costs including all payroll additives,
- (b) Incurred net delivered material costs,
- (c) Incurred lower-tier supplier and subcontractor costs directly related to performing the corrective actions,
- (d) Equipment and tool rentals at prevailing rates in the Jobsite area, and
- (e) A factor of sixty percent (60%) applied to the total of Items (a) through (d) for CONTRACTOR'S overhead, supervision and administrative costs.

The backcharge notice will request SUBCONTRACTOR'S approval for CONTRACTOR to proceed with the required Work. However, failure of SUBCONTRACTOR to grant such approval shall not impair CONTRACTOR'S right to proceed with Work under this or any other provision of this Subcontract.

CONTRACTOR shall separately invoice or deduct from payments otherwise due to SUBCONTRACTOR the costs as provided herein. CONTRACTOR'S right to backcharge is in addition to any and all other rights and remedies provided in this Subcontract or by law. The performance of backcharge Work by CONTRACTOR shall not relieve SUBCONTRACTOR of any of its responsibilities under this Subcontract including but not limited to express or

implied warranties, specified standards for quality, contractual liabilities and indemnification, and the Subcontract Schedule.

GP-36 INDEMNITY

SUBCONTRACTOR hereby releases and shall indemnify, defend and hold harmless CONTRACTOR, WSRC the GOVERNMENT and their subsidiaries and affiliates and the officers, agents, employees, successors and assigns an authorized representatives of all the foregoing from and against any and all suits, actions, legal, or administrative proceedings, claims, demands, damages, liabilities, interest, attorney's fees, costs, expenses, and losses of whatsoever kind or nature in connection with or incidental to the performance of this subcontract, whether arising before or after completion of the Work hereunder and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part, or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence whether active or passive of SUBCONTRACTOR, its lower-tier suppliers, subcontractors or of anyone acting under its direction or control or on its behalf.

The foregoing shall include, but is not limited to, indemnity for:

1. Events which are directly or indirectly caused by or incident to the radioactive, toxic and/or hazardous properties of any substance and/or
2. Events which arise out of any state or federal statute relating to radioactive, toxic and/or hazardous properties, such as the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) or Resource Conservation and Recovery Act (RCRA), and shall apply to any clean-up or response costs occasioned by the transport, treatment, storage or disposal by SUBCONTRACTOR or any third party of radioactive, toxic and/or hazardous properties.
3. Property damage and injury to or death of any person, including employees of CONTRACTOR, WSRC the GOVERNMENT, or SUBCONTRACTOR.
4. The breach by SUBCONTRACTOR of any representation, warranty, covenant, or performance obligation of this subcontract.

SUBCONTRACTOR'S aforesaid release, indemnity and hold harmless obligations, or portions or applications thereof, shall apply even in the event of the fault or negligence, whether active or passive, or strict liability of the parties released, indemnified or held harmless to the fullest extent permitted by law, but in no event shall they apply to liability caused by the willful misconduct or sole negligence of the party released, indemnified, or held harmless. Nothing in the foregoing shall be construed to require SUBCONTRACTOR to indemnify and save harmless CONTRACTOR, WSRC or the GOVERNMENT from any liability out of or resulting from the liabilities for which indemnification is provided under DEAR 952.250-70.

SUBCONTRACTOR specifically waives any immunity provided against this indemnify by any industrial insurance or workers' compensation statute.

GP-37 PATENT AND INTELLECTUAL PROPERTY INDEMNITY

SUBCONTRACTOR hereby indemnifies and shall defend and hold harmless CONTRACTOR, WSRC the GOVERNMENT and their representatives from and against any and all claims, actions, losses, damages and expenses, including attorney's fees, arising from any claim, whether rightful or otherwise, that any concept, product, design, equipment, materials, process, copyrighted materials, or confidential information, or any part thereof, furnished by SUBCONTRACTOR under this Subcontract constitutes and infringement of any patent or copyrighted material or a theft of trade secrets. If use of any part of such concept, product, design, equipment, material, process, copyrighted material or confidential information is limited or prohibited, SUBCONTRACTOR shall, at its sole expense, procure the necessary licenses to use the infringing or a modified by non-infringing concept, product, design, equipment, material, process, copyrighted material or confidential information or, with CONTRACTOR'S, WSRC or the GOVERNMENT'S prior written approval, replace it with substantially equal but non-infringing concepts, products, designs, equipment, materials, processes, copyrighted material, or confidential information; provided, however,

- (a) That any such substituted or modified concepts, products, designs, equipment, material, processes, copyrighted material or confidential information shall meet all the requirements and be subject to all the provisions of this Subcontract; and
- (b) That such replacement or modification shall not modify or relieve SUBCONTRACTOR of its obligations under this Subcontract.

The foregoing obligation shall not apply to any concept, product, design, equipment, material, process, copyrighted material or confidential information the detailed design of which (excluding rating and/or performance specifications) has been furnished in writing by CONTRACTOR, WSRC or the GOVERNMENT to SUBCONTRACTOR.

GP-38 ASSIGNMENTS AND SUBCONTRACTS

SUBCONTRACTOR shall not assign or transfer this Subcontract or any interest herein, or claims here under, without the prior written consent of CONTRACTOR or CONTRACTOR'S assignee. SUBCONTRACTOR may upon ten (10) calendar days written notice to CONTRACTOR assign moneys due or to become due under this Subcontract, provided that any assignment of moneys shall be subject to proper set-offs in favor of CONTRACTOR and any deductions provided for in this Subcontract.

CONTRACTOR may assign this Subcontract to WSRC or the GOVERNMENT or to such party as WSRC or the GOVERNMENT designate to perform CONTRACTOR'S obligations here under. Upon written notice to Subcontractor that WSRC or the GOVERNMENT or a party so designated by WSRC or the GOVERNMENT has accepted an assignment of this Subcontract. CONTRACTOR shall be relieved of all responsibilities here under.

SUBCONTRACTOR shall not subcontract with any third party for the performance of all or any portion of the Work without the advance written approval of CONTRACTOR. Lower-tier subcontracts and purchase orders must include provisions to secure all rights and remedies of CONTRACTOR, WSRC and the GOVERNMENT provided under this Subcontract, and must impose upon the lower-tier supplier and subcontractor all of the general duties and obligations required to fulfill this Subcontract.

Copies of all purchase and subcontract agreements are to be provided to CONTRACTOR upon request. Pricing may be deleted unless the compensation to be paid thereunder is reimbursable under this Subcontract.

GP-39 SUSPENSION

CONTRACTOR may by written notice to SUBCONTRACTOR, suspend at any time the performance of all or any portion of the Work to be performed under the Subcontract. Upon receipt of such notice, SUBCONTRACTOR shall, unless the notice requires otherwise:

- (a) Immediately discontinue Work on the date and to the extent specified in the notice,
- (b) Place no further orders or subcontracts for material, services, or facilities with respect to suspended Work other than to the extent required in the notice,
- (c) Promptly make every reasonable effort to obtain suspension upon terms satisfactory to CONTRACTOR of all orders, subcontracts and rental agreements to the extent they relate to performance of suspended Work,
- (d) continue to protect and maintain the Work including those portions on which Work has been suspended, and
- (e) Take any other reasonable steps to minimize costs associated with such suspensions.

As full compensation for such suspension, SUBCONTRACTOR will be reimbursed for the following costs, excluding profit, reasonably incurred, without duplication of any item, to the extent that such costs directly result from such Work suspension:

- (a) A standby charge to be paid to SUBCONTRACTOR during the period of Work suspension, which standby charge shall be sufficient to compensate SUBCONTRACTOR for keeping, to the extent required in the suspension notice, its organization and equipment committed to the Work on a standby basis,
- (b) All reasonable costs associated with mobilization and demobilization of SUBCONTRACTOR'S plant, forces and equipment, and
- (c) An equitable amount to reimburse SUBCONTRACTOR for the cost of maintaining and protecting that portion of the Work upon which performance has been suspended.

Upon receipt of notice to resume suspended Work, SUBCONTRACTOR shall immediately resume performance under this Subcontract to the extent required in the notice.

If the SUBCONTRACTOR intends to assert a claim for equitable adjustment under this clause, it must, within ten (10) calendar days after receipt of notice to resume Work, submit to CONTRACTOR a written statement setting forth the schedule impact and monetary extent of such claim in sufficient detail to permit thorough analysis. No adjustment shall be made for any suspension to the extent that performance would have been suspended, delayed, or interrupted by any SUBCONTRACTOR non-compliance with the requirements of this Subcontract.

GP-40 TERMINATION FOR DEFAULT

Notwithstanding any other provisions of the Subcontract, SUBCONTRACTOR shall be considered in default of its contractual obligations under this Subcontract if it:

- (a) Performs work which fails to conform to the requirements of this Subcontract;
- (b) Fails to make progress so as to endanger performance of this Subcontract;
- (c) Abandons or refuses to proceed with any of the Work, including modifications direct pursuant to the General Provision titled "CHANGES";
- (d) Fails to fulfill or comply with any of the terms of this Subcontract;
- (e) Engages in behavior that is dishonest, fraudulent, or constitutes a conflict of interest with SUBCONTRACTOR'S obligations under this Subcontract; or if
- (f) SUBCONTRACTOR becomes insolvent or makes a general assignment for the benefit of creditors or reasonable grounds for insecurity arise with respect to SUBCONTRACTOR'S performance.

Upon the occurrence of item (a), (b), (d) or (f) above, CONTRACTOR shall notify SUBCONTRACTOR in writing of the nature of the failure and of CONTRACTOR'S intention to terminate the Subcontract for default. If SUBCONTRACTOR does not cure such failure within seven (7) calendar days from receipt of notification, or sooner if safety to persons is involved, or fails to provide satisfactory evidence that such default will be corrected within a reasonable time, CONTRACTOR may, by written notice to SUBCONTRACTOR and without notice to SUBCONTRACTOR'S sureties, if any, terminate in whole or in part SUBCONTRACTOR'S right to proceed with the Work and CONTRACTOR may prosecute the Work to completion by contract or by any other method deemed expedient. CONTRACTOR may take possession of and utilize any data, designs, licenses, equipment, materials, plant, tools and property of any kind furnished by SUBCONTRACTOR and necessary to complete the Work.

Upon the occurrence of (c) or (e) above, CONTRACTOR may terminate this Subcontract for default immediately. Any notice to or request for information from SUBCONTRACTOR prior to issuing such notice of default is solely for CONTRACTOR'S convenience and confers no rights upon SUBCONTRACTOR.

SUBCONTRACTOR and its sureties, if any, shall be liable for all costs in excess of the Subcontract price for such terminated work reasonably and necessarily incurred in the completion of the Work as scheduled, including cost of administration of any purchase order or subcontract awarded to others for completion.

Upon termination for default, SUBCONTRACTOR shall:

- (g) Immediately discontinue work on the date and to the extent specified in the notice and place no further purchase orders or subcontracts to the extent that they relate to the performance of the terminated work;
- (h) Inventory, maintain and turn over to CONTRACTOR all data, designs, licenses, equipment, materials, plant, tools and property furnished by SUBCONTRACTOR or provided by CONTRACTOR for performance of the terminated work;
- (i) Promptly obtain cancellation upon terms satisfactory to CONTRACTOR of all purchase orders, subcontracts, rentals, or any other agreements existing for performance of the terminated work or assign those agreements as directed by CONTRACTOR;
- (j) Cooperate with the CONTRACTOR in transfer of data, designs, licenses and information and disposition of work in progress so as to mitigate damages;
- (k) Comply with other reasonable requests from CONTRACTOR regarding the terminated work; and
- (l) Continue to perform in accordance with all of the terms and conditions of this Subcontract such portion of the Work that is not terminated.

If, after termination pursuant to this clause, it is determined for any reason that SUBCONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the General Provision titled "TERMINATION FOR CONVENIENCE".

GP-41 TERMINATION FOR CONVENIENCE

CONTRACTOR may, at its option, terminate for convenience any of the Work under this Subcontract in whole or, from time to time, in part, at any time by written notice to SUBCONTRACTOR. Such notice shall specify the extent to which the performance of the Work is terminated and the effective date of such termination. Upon receipt of such notice SUBCONTRACTOR shall:

- (a) Immediately discontinue the Work on the date and to the extent specified in the notice and place no further purchase orders or subcontracts for materials, services, or facilities, other than as may be required for completion of such portion of the Work that is not terminated.
- (b) Promptly obtain assignment or cancellation upon terms satisfactory to CONTRACTOR of all purchase orders, subcontracts, rentals, or any other agreements existing for the performance of the terminated work or assign those agreements directed by CONTRACTOR;
- (c) Assist CONTRACTOR in the maintenance, protection and disposition of work in progress, plant, tools, equipment, property and materials acquired by SUBCONTRACTOR or furnished by CONTRACTOR under this Subcontract; and
- (d) Complete performance of such portion of the Work which is not terminated.

Upon any such termination, SUBCONTRACTOR shall waive any claims for damages including loss of anticipated profits; on account thereof, but as the sole right and remedy of SUBCONTRACTOR, CONTRACTOR shall pay in accordance with the following:

- (e) The subcontract price corresponding to the work performed in accordance with this Subcontract prior to such notice of termination;
- (f) All reasonable costs for work thereafter performed as specified in such notice;
- (g) Reasonable administrative costs of settling and paying claims arising out of the termination of work under purchase orders or subcontracts;

- (h) Reasonable costs incurred in demobilization and disposition of residual material, plant and equipment; and
- (i) A reasonable overhead and profit in accordance with Special Provision titled "PRICING OF ADJUSTMENTS".

SUBCONTRACTOR shall submit within thirty (30) calendar days after receipt of notice of termination, a written statement setting forth its proposal for an adjustment to the subcontract price to include only the incurred costs described in this clause. CONTRACTOR shall review, analyze and verify such proposal, and negotiate an equitable adjustment, and the Subcontract shall be modified accordingly.

GP-42 FINAL INSPECTION AND ACCEPTANCE

When SUBCONTRACTOR considers the Work, or any CONTRACTOR-identified independent portion of the Work, under this Subcontract to be complete and ready for acceptance, SUBCONTRACTOR shall notify CONTRACTOR in writing. CONTRACTOR, with SUBCONTRACTOR'S cooperation, will conduct such reviews, inspections and tests as may be reasonably required to satisfy CONTRACTOR that the Work, or identified portion of the Work, conforms to all requirements of the Subcontract. If all or any part of the Work covered by SUBCONTRACTOR'S notice does not conform to Subcontractor requirements, CONTRACTOR shall notify SUBCONTRACTOR of such nonconformance and SUBCONTRACTOR shall take corrective action and then have the nonconforming work reinspected until all Subcontract requirements are satisfied.

CONTRACTOR shall issue a Notice of Provisional Acceptance for individual portions which have been satisfactorily inspected subject only to CONTRACTOR'S Final Acceptance of the Work as a whole.

CONTRACTOR'S written Notice of Final Acceptance of the Work under this Subcontract shall be final and conclusive except with regard to latent defects, fraud, or such gross mistakes as amount to fraud, or with regard to CONTRACTOR'S, WSRC's, and the GOVERNMENT'S right under the General Provision titled "WARRANTY".

GP-43 NON-WAIVER

Failure by CONTRACTOR to insist upon strict performance of any terms or conditions of this Subcontract, or failure or delay to exercise any rights or remedies provided herein or by law, or failure to properly notify SUBCONTRACTOR in the event of breach, or the acceptance of or payment for any goods or services hereunder, or the review or failure to review designs shall not release SUBCONTRACTOR from any of the warranties or obligations of this Subcontract and shall not be deemed a waiver of any right of CONTRACTOR, WSRC or the GOVERNMENT to insist upon strict performance hereof or any of its rights or remedies as to any prior or subsequent default hereunder nor shall any termination of Work under this Subcontract by CONTRACTOR operate as a waiver of any of the terms hereof.

GP-44 SURVIVAL

The rights and obligations of the parties which by their nature survive termination or completion of this Subcontract, including but not limited to those set forth in the General Provisions titled "WARRANTY" and "INDEMNITY", shall remain in full force and effect.

GP-45 PAYMENT BY ELECTRONIC FUNDS TRANSFER

(a) Methods of Payment.

- (1) All payment by CONTRACTOR under this SUBCONTRACT shall be made by Electronic Funds Transfer (EFT) except as provided in paragraph A.2 of this Provision. As used in this Provision, the term "EFT" refers to the funds transfer and may also include the payment information transfer
- (2) In the event CONTRACTOR is unable to release one or more payments by EFT, SUBCONTRACTOR agrees to either:
 - (i) Accept payment by check or some other mutually agreeable method of payment; or
 - (ii) Request CONTRACTOR to extend payment due dates until such time as CONTRACTOR makes pay

payment by EFT.

(b) Mandatory Submission of SUBCONTRACTOR'S EFT Information

SUBCONTRACTOR is required to provide CONTRACTOR with the information required to make payment by EFT. SUBCONTRACTOR shall provide this information directly to the office designated in this Subcontract on forms provided CONTRACTOR, no later than 15 days after award. If not otherwise specified in the Subcontract, the payment office is the designated office for receipt of Supplier's EFT information. In the event that the EFT information changes, SUBCONTRACTOR shall be responsible for providing the updated information to the designated office.

(c) Mechanisms for EFT Payment

CONTRACTOR may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System.

(d) Suspension of Payment.

(1) CONTRACTOR is not required to make any payment under this Subcontract until after receipt, by the designated office, of the correct EFT payment information from SUBCONTRACTOR. Until receipt of the correct EFT information, any invoice or subcontract financing request shall be deemed not to be a proper invoice for the purpose of payment under the Subcontract.

(2) If the EFT information changes after submission of correct EFT information, CONTRACTOR shall begin using the changed EFT information no later than 30 days after its receipt by the designated office. However, SUBCONTRACTOR may request that no further payments be made until the updated EFT information is implemented by the payment office.

(e) Payment Information.

On the day payment on SUBCONTRACTOR'S invoice is due, CONTRACTOR will issue instructions to its bank to transfer payment to SUBCONTRACTOR, and will also send a FAX to SUBCONTRACTOR explaining the details to support the payment.

(f) Liability for Uncompleted or Erroneous Transfers.

(1) If an uncompleted or erroneous transfer occurs because CONTRACTOR used the SUBCONTRACTOR'S EFT information incorrectly, CONTRACTOR remains responsible for --

- (i) Making a correct payment; and
- (ii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because SUBCONTRACTOR'S EFT information was incorrect, or was revised within 30 days of CONTRACTOR release of the EFT payment transaction instructions to the bank, and --

- (i) If the funds are no longer under the control of the payment office CONTRACTOR is deemed to have made payment and the SUBCONTRACTOR is responsible for recovery of any erroneously directed funds, or
- (ii) If the funds remain under the control of the payment office, CONTRACTOR shall not make payment and the provisions of paragraph (d) shall apply.

GP-46 PRICE-ANDERSON AMENDMENTS ACT

(a) The Department of Energy has promulgated Procedural Rules (10 CFR 820), Nuclear Safety Management Rules

(10 CFR 830), and Radiation Protection Rules (10 CFR 835) in implementation of the Price-Anderson Amendments Act (PAAA) of 1988, Public Law 100-408, August 20, 1988. These rules govern the conduct of persons involved in DOE nuclear activities, and, in particular, are designed to achieve compliance with DOE

nuclear safety requirements. Violation of the applicable rules will provide a basis for the assessment of civil and criminal penalties under the PAAA.

- (b) This Subcontract is subject to the requirements of the above rules if the performance of work involves conduction activities (including providing items and services), on or off the Savannah River Site, that affect, or may affect, the safety of DOE facilities

GP-47 GOVERNMENT FLOWDOWNS

The Federal Acquisition Regulation (FAR), the Department of Energy (DOE) FAR Supplement (DEAR) clauses, and the DOE Procurement Regulations incorporated herein shall have the same force and effect as if printed in full text. Upon request, CONTRACTOR will make their full text available. Wherever necessary to make the context of the clauses set forth below applicable to this Subcontract, the term "Contractor" shall mean SUBCONTRACTOR, the term "subcontractor" shall mean lower-tier subcontractor, the term "Contract" shall mean this subcontract, the term "subcontract" shall mean "lower-tier subcontract", and where noted or where necessary to derive proper meaning the term "Government", "Contracting Officer" and equivalent phrases shall mean CONTRACTOR'S Representative, except the terms "Government" and "Contracting Officer" do not change:

- (1) in the phrases "Government Property", "Government-Furnished Property" and "Government-Owned Property";
- (2) in the patent clauses incorporated herein;
- (3) when a right, act, authorization, or obligation can be granted or performed only by the Government's duly authorized representative;
- (4) when title to property is to be transferred directly to the Government;
- (5) When access to proprietary financial information or other proprietary data is required except for authorized audit rights; and
- (6) where specifically modified herein.

SUBCONTRACTOR agrees to incorporate the requirements of this Provision and the Clauses listed herein into any lower-tier subcontract or purchase orders.

Clauses Applying to All Subcontracts

<u>Clause</u>	<u>Title</u>
FAR 52.203-3	Gratuities (APR 1984)
FAR 52.203-5	Covenant Against Contingent Fees (ARP 1984)
FAR 52.203-6	Restrictions on Subcontractor Sales to the Government (JUL 1985)
FAR 52.203-7	Anti-Kickback Procedures (OCT 1988)
FAR 52.222-1	Notice to the Government of Labor disputes (APR 1984)
FAR 52.222-3	Convict Labor (APR 1984)
FAR 52.224-2	Privacy Act (APR 1984)
FAR 52.225-5	Buy American Act - Construction Materials (JUNE 1997)
FAR 52.225-11	Restrictions on Certain Foreign Purchases(MAY 1992)
FAR 52.227-1	Authorization and Consent (APR 1984)(MODIFIED)
FAR 52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (APR 1984)
FAR 52.227-4	Patent Indemnity – Construction Contracts (APR 1994)
FAR 52.227-23	Rights to Proposal Data (Technical)(JUNE 1987)
DEAR 952.204-74	Foreign Ownership, Control, or Influence over Contractor (APR 1984)
DEAR 952.250-70	Nuclear Hazards Indemnity Agreement (JAN 1992)(MODIFIED)
DEAR 970.5203-2	Examination of Records by Comptroller General (FEB 1993)
DEAR 970.5204-2	Integration of Environmental, Safety, and Health into Work Planning and Execution (JUNE 1997)
DEAR 970.5204-59	Whistleblower Protection for Contractor Employees (JAN 1993)

Clauses Applying to Subcontracts over \$2,000

<u>Clause</u>	<u>Title</u>
---------------	--------------

FAR 52.222-4	Contract Work Hours and Safety Standards Act - Overtime Compensation (MAR 1986)
FAR 52.222-6	Davis-Bacon Act (NOV 1992)
FAR 52.222-7	Withholding of Funds (FEB 1988)
FAR 52.222-8	Payrolls and Basic Records (FEB 1988)
FAR 52.222-9	Apprentices and Trainees (FEB 1988)
FAR 52.222-11	Subcontracts (Labor Standards) (FEB 1988)
FAR 52.222-12	Contract Termination – Debarment (FEB 1988)
FAR 52.222-14	Disputes Concerning Labor Standards (FEB 1988)
FAR 52.222-15	Certification of Eligibility (FEB 1988)

Clauses Applying to Subcontracts over \$2,500

<u>Clause</u>	<u>Title</u>
FAR 52.222-36	Affirmative Action for Handicapped Workers (APR 1984)

Clauses Applying to Subcontracts over \$10,000

<u>Clause</u>	<u>Title</u>
FAR 52.222-21	Prohibition of Segregated Facilities (FEB 1999)
FAR 52.222-23	Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction (FEB 1999)
FAR 52.222-26	Equal Opportunity (APR 1984)
FAR 52.222-27	Affirmative Action Compliance Requirements for Construction (FEB 1999)
FAR 52.222-35	Affirmative Action for Special Disabled and Vietnam ERA Veterans (APR 1984)
FAR 52.222-37	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988)

Clauses Applying to Subcontracts over \$100,000

<u>Clause</u>	<u>Title</u>
FAR 52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (FEB 1990)
FAR 52.215-2	Audit and Records – Negotiation (AUG 1996)
FAR 52.223-2	Clean Air and Water (APR 1984)

Clauses Applying to Subcontracts over \$500,000

<u>Clause</u>	<u>Title</u>
DEAR 970.5204-24	Subcontractor Cost or Pricing Data (DEC 1994)

Clauses Applying to Subcontracts over \$1,000,000

<u>Clause</u>	<u>Title</u>
FAR 52.219-9	Small Business and Small Disadvantaged Business Subcontracting Plan (JAN 1991)